

REMARKS

This communication is in response to the Office Action mailed March 5, 2008. In this response, claims 1, 6, 10, 14, 20, 24, 32, and 36 have been amended and no claims have been cancelled or added. Accordingly, claims 1-40 are currently pending.

In the March 5, 2008 Office Action, claims 1-40 were rejected under 35 U.S.C. § 103(a) over U.S. Patent Application No. 2003/0125112 A1 to Silvester ("Silvester") in view of U.S. Patent Application No. 2002/0103029 A1 to Finlayson et al. ("Finlayson") and the game manual for Quake III Arena ("Quake"). Without commenting on or conceding the merits of these rejections, claims 1, 6, 10, 14, 20, 24, 32, and 36 have been amended. Support for the claim amendments may be found, for example, in paragraph [0036] of the instant specification. As an example, this paragraph states:

[i]n single-player mode, the NPCs [(non-player character)] in the game are controlled by program-defined AI and/or other routines. During the course of the game, unbeknown to the host player 320, one of the gate crashers 322 (e.g., the gate crasher 322a) breaks into the game via the network 302 and assumes control of one of the NPCs."

(Specification, ¶ [0036]). For the reasons discussed below, the combination of Silvester, Finlayson, and Quake does not support a Section 103 rejection of claims 1-40. As a result, the Section 103 rejection of these claims should be withdrawn.

Claim 1 is directed to a computer-implemented method for playing a game. The method includes receiving a request from a first player to enable gate crashing in the game, which is configured to be played by a single player. In response to the request from the first player, information is transmitted to a remote computer. In response to transmitting the information to the remote computer, a request from a second player to participate in the game is received. Finally, in response to the request from the second player to participate in the game, control of a character in the game is transitioned from a program routine to the second player. The first player is unaware of a transition of the

character's control from the program routine to the second player, and the first player is substantially unaware of which character's control may be transitioned to the second player.

Silvester discloses a system wherein a host user may broadcast a gaming invitation for a multiplayer game over a computer network. An invitee may accept or reject the gaming invitation. (Silvester, p. 1, ¶ [0008]) If the invitee accepts the invitation, multiplayer gaming between the host user and the invitee may begin. (Silvester, p. 1, ¶ [0008]) Alternatively, a party may request to join a game in progress if room is available in the game. (Silvester, p. 2, ¶ [0017]) If a party requests to join the game, the party's request is presented to the host user, who may reject or accept the request. (Silvester, p. 2, ¶ [0017])

Finlayson discloses a method of administrating a live electronic card game in which two or more players wager in a networked environment. (Finlayson, p. 1, ¶ [0007]) A game may begin with multiple players. If a player leaves the game for any reason, the system announces to the other players in the game that the player has been lost. (Finlayson, p. 2, ¶ [0015]) If a player is lost, the system may replace the lost player with a virtual player. (Finlayson, p. 3, ¶ [0041]) The virtual player may continue to play the card game as the lost player. (Finlayson, p. 3, ¶ [0041])

Quake discloses a multiplayer first person shooter video game. A user may select to play a multiplayer game on a local network server or a server available over the Internet. (Quake, p. 20) The user may create a multiplayer game that is open to network and Internet players. (Quake, p. 22) The user may select an arena in which to play and edit a player list that designates how many players can be in the game. (Quake, p. 22) The user can allow other human players to enter the game over the network connection by changing a player slot to "Open." (Quake, p. 22) If a user changes a player slot to "Bot," a computer plays as that opponent and a human player cannot subsequently join in that slot. (See Quake, p. 22)

Independent claim 1 is patentable over Silvester, Finlayson, and Quake under Section 103 because Silvester alone fails to teach or suggest each and every element of the claimed invention, and neither Finlayson alone nor Finlayson in combination with Quake corrects the deficiencies of Silvester. The Examiner is correct that Silvester fails to teach the feature from claim 1 that "in response to the request from the second player to participate in the game, transitioning control of a character in the game from a program routine to the second player." (Office Action dated October 16, 2008, p. 4) However, the Examiner is incorrect to conclude that Finlayson and/or Quake corrects this deficiency. Furthermore, claim 1 has been amended in this response to include the feature "wherein the first player is unaware of a transition of the character's control from the program routine to the second player, and wherein the first player is substantially unaware of which character's control may be transitioned to the second player." Again, Silvester does not teach or suggest this feature, and Finlayson and Quake fail to correct this deficiency in Silvester.

The M.P.E.P. states that if a "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." (M.P.E.P. § 2143.01(V)) The Examiner contends that a host player or other player being "aware" of another player joining a game is a design choice that is included in Quake. (See Office Action dated October 16, 2008, p. 2) Assuming, *arguendo*, that Quake does disclose such a feature, Silvester cannot be modified to make a host player unaware of another player joining a game, because doing so would render Silvester unsatisfactory for its intended purpose. Under Silvester, a host player holds all the power to control a game. Until the host player quits the game and hosting privileges are transferred to another player, the host player may choose who may play in his game. In this spirit, Silvester even includes in all its relevant independent claims a limitation wherein the host has power to accept or reject a request from a crasher to join a game. (See, e.g., Silvester, Claims 1 & 7) If one were to modify Silvester so that a host player loses his power and is

unaware of a player entering a game, Silvester would be rendered unsatisfactory for its intended purpose. Accordingly, the Section 103 rejection of claim 1 should be withdrawn.

Furthermore, neither Silvester alone, nor Silvester in combination with Finlayson disclose at least the feature from claim 1 of "transitioning control of a character in the game from a program routine to the second player, wherein the first player is unaware of a transition of the character's control from the program routine to the second player, and wherein the first player is substantially unaware of which character's control may be transitioned to the second player." As stated earlier, the Examiner is correct that Silvester does not disclose even the feature of transitioning control of a character in the game from a program routine to a second player. However, Finlayson and Quake also fail to disclose the aforementioned features of claim 1.

Even assuming, *arguendo*, that in Finlayson a player may leave a game and an AI bot may replace the player until the player returns, Finlayson still fails to disclose the feature from claim 1 "wherein the first player is substantially unaware of which character's control may be transitioned to the second player." Finlayson states that "[i]n a game played with stand-ins, each player will know that the other players also have stand-ins available to them," and thus each player is aware of which player may be controlled by a stand-in. (Finlayson, ¶ [0063]) Similarly, assuming, *arguendo*, that under Quake a character's control may be transitioned from a program routine to a second player, Quake also still fails to disclose the feature from claim 1 "wherein the first player is substantially unaware of which character's control may be transitioned to the second player." Instead, under Quake, in order to allow other players to join a multiplayer game, the host player must designate a player slot as "open." (Quake, p. 22.) The host player is thereby aware of both the second player's participation in the game and of which character a second player controls or may control. Thus, under the invention from claim 1, a first player may play a game with or against another human

player who unpredictably controls a character that was previously controlled by monotonous computer routines, thereby creating a new and challenging experience for the first user with each new game. In contrast, under a hypothetical combination of Silvester, Finlayson, and Quake, the first player may predict which character a second player controls if the second player enters the game, creating a much less spontaneous and overall duller gaming experience. Accordingly, for at least the reasons discussed above, the Section 103 rejection of claim 1 should be withdrawn.

Claims 2-5 depend from claim 1. Accordingly, the Section 103(a) rejection of claims 2-5 should be withdrawn for the reasons discussed above with reference to claim 1 and for the additional features of these claims.

Independent claims 6, 10, 14, 20, 24, 32, and 36 contain subject matter generally analogous to that of claim 1, including at least a feature analogous to "wherein the first player is substantially unaware of which character's control may be transitioned to the second player." As a result, claim 6, 10, 20, 24, 32, and 36 are also patentable over the applied art for the reasons discussed above with reference to claim 1 and for the additional features of these claims.


Claims 7-9, 11-13, 15-19, 21-23, 25-31, 31-35, and 37-40 depend from either claim 6, 10, 14, 20, 24, 32, or 36. Accordingly, the Section 103(a) rejection of claims 7-9, 11-13, 15-19, 21-23, 25-31, 31-35, and 37-40 should be withdrawn for the reasons discussed above with reference to claims 6, 10, 14, 20, 24, 32, and 36, respectively, and for the additional features of these claims.

In view of the foregoing, the pending claims comply with the requirements of 35 U.S.C. § 112 and are patentable over the applied art. The applicants accordingly request reconsideration of the application and a Notice of Allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact the undersigned representative.

Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 418268014US from which the undersigned is authorized to draw.

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Respectfully submitted,

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